



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,547	03/07/2001	Aurelia Maza	06640-148 US	4160

7590 12/23/2002

Patent Counsel
Bestfoods
700 Sylvan Avenue
Englewood Cliffs, NJ 07632

EXAMINER

PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 12/23/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,547

Applicant(s)

MAZA ET AL.

Examiner

Carolyn A Paden

Art Unit

1761

ms 9

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heteren in view of Desrosier and further in view of Ross for reason of record.

Applicant argues that the references do not disclose a spoonable or pourable dressing. This has been considered but is not persuasive because non-dairy creams can be used as dressings on desserts. Applicant discusses mayonnaise but the claims are not directed to mayonnaise.

Claims 1-17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Desrosier and further in view of Van Heteren for reasons of record.

Applicant argues that Ross does not disclose making dressings. But Ross does disclose making emulsions and non-dairy creams are emulsions that can be used as dressings.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trainor (4,423,084) in view of Ross.

Trainor discloses making a salad dressing. Table 1 and Example 1 shows ingredients that include starch, acidulant, egg, oil, water and sweetener. These ingredients are mixed together and then processed in a colloid mill that included a rotor and a stator. The claims appear to differ from the reference in the suggestion of specific apparatus features of the colloid mill. Ross teaches the use of the rotor and stator that is set forth in the claims. Ross also teaches that the rotor and stator is known for use in foods and emulsions (column 1, lines 5-14). It would have been obvious at the time the invention was made to utilize the rotor and stator of Ross in an edible emulsion, which is a spoonable dressing. Further it would have been obvious to prepare a pre-emulsion prior to emulsifying the food product in order to assist in providing a uniform final product.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art further shows edible emulsions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone

Application/Control Number: 09/800,547
Art Unit: 1761

Page 4

number is 703-308-3294. The examiner can normally be reached on
Monday to Friday from 7am to 3:30pm.

The fax phone number for the organization where this application or
proceeding is assigned is 703-305-7718.

Any inquiry of a general nature or relating to the status of this
application or proceeding should be directed to the receptionist whose
telephone number is 703-308-0661.



CAROLYN PADEN / 2-18-02
PRIMARY EXAMINER
GROUP 1300-1761